

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MILAGROS RAYRAY SURATOS,

Petitioner,

vs.

CAROLYN MYLES, et al.,

Respondents.

2:11-cv-00955-KJD-GWF

ORDER

This action proceeds on a habeas corpus petition pursuant to 28 U.S.C. § 2254 brought pro se by petitioner, Milagros Rayray Suratos. Before the Court is an unopposed motion to dismiss the petition (ECF No. 7) on the grounds that it contains unexhausted and procedurally barred claims.

Despite being given notice through the Court's Order regarding the requirements of *Klinge v. Eikenberry* and *Rand v. Rowland*, petitioner has not opposed the motion and has not sought additional time from the Court to do so. Local Rules of Practice (LR) Rule 7-2(d) provides that ... "the failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion."

Because, pursuant to 28 U.S.C. § 2254(b)(1), the Court is unable to entertain the merits of claims raised in this Court but not raised before the state court's, the motion to dismiss must be

1 granted.

2 **IT IS THEREFORE ORDERED** that the Motion to Dismiss the Petitioner (ECF No.
3 7) is **GRANTED**. The petition is **DISMISSED**. The Clerk shall enter judgment accordingly.

4 DATED: October 12, 2011

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8 UNITED STATES DISTRICT JUDGE